

अण्डमान तथा Andaman And



निकोबार राजपत्र

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No. 02, Port Blair, Monday, January 5, 2009

अण्डमान तथा निकोबार प्रशासन
ANDAMAN AND NICOBAR ADMINISTRATION
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NOTIFICATION

Port Blair, dated the 5th January, 2009.

No.2/09/F.No. 3-236/2000-Labour.—In pursuance of sub-section (1) of section 17 of the Industrial Disputes Act, 1947 (Act No. 14 of 1947) read with Notification No. LR-1(59)/55 dated 13th December, 1955 of the Govt. of India, Ministry of Labour and Andaman and Nicobar Administration's Notification No. 144/08/F. No. 17-2/2007-Labour dated 7/10/2008, the Secretary (Labour), Andaman and Nicobar Administration hereby orders for publishing the following Award given by the Labour Court, Andaman and Nicobar Islands, Port Blair in the matter of an Industrial Dispute between the Management of CARI, Port Blair and its workman represented by the Plantation Crops Workers Union over the termination of services of workmen referred to the Industrial Tribunal for adjudication vide Administration's Notification No. 3-236/2000-Labour dated 24/25 January, 2001.

**IN THE COURT OF THE PRESIDING OFFICER
LABOUR COURT**

ANDAMAN & NICOBAR ISLANDS PORT BLAIR

Present : Mir Dara Sheko, Presiding Officer
Labour Court, Port Blair.

I.D. Case No. 03 of 2001

The General Secretary
Plantation Corps Workers Union,
Port Blair **First Party**

Versus

The Director
Central Agricultural Research Institute,
Port Blair **Second Party**

Tuesday, the 18th day of November, 2008.

JUDGEMENT

This instant I.D. case is an outcome due to reference made by the Hon'ble Lt. Governor, A & N Islands by notification no. 24/25 January, 2001 F.No. 3-236/2000-Labour under sub-section 1 of Section 10 read with sub-section 5 of Section 12 of Industrial Dispute Act, 1947 for adjudication of the points :

1. Whether the action of the Director, Central Agricultural Research Institute, Port Blair in terminating the services of Shri Ravi Babu, Junior Clerk, S. Mohan Rao, R. Armugam, Laxman Rao, Theodor Kullu, G. Tata Rao, B.V.V. Swamy and Laxmi Narayan, TSMs is illegal and justified ?
2. If not, to what relief these workmen represented by the General Secretary, Plantation Workers Union, Bhatu Basti, Port Blair are entitled to.

DECISION WITH REASONS

The first party i.e. workmen under reference being represented by their General Secretary, submitted that though during the year 1997, the second party Central Agricultural Research Institute (CARI) had elected Ravi Babu and R. Armugam for constituting Works Committee and also extended temporary status of 72 workers but the workmen had started agitation peacefully, to which they are entitled under the Trade Unions Act for satisfaction of their demand, but by implicating the first party workmen in false case in connivance with the police administration, the second party has terminated them in the name of disciplinary proceeding illegally.

The first party further averred that since the institution of the second party as an Industry, without going through the provision of I.D. Act i.e. without service of notice under section 25 F of the I.D. Act cannot terminate and so the termination order in question being illegal is liable to be set aside.

The second party being duly represented by its officer replied during final hearing that all the persons connected with the case were daily rated mazdoors having temporary status cannot on one side commit assault on the staff of the management of the second party and on the other side cannot seek employment under the same second party and consequently, the indiscipline workers deserve to be terminated and so the step accordingly had been taken on taking disciplinary action against them. Admittedly, there was on criminal case during the agitation, undergone by the workmen of the CARI and in connection with that criminal case the workmen under reference were in custody for more than 2 weeks and ultimately they were acquitted with honour for want of corroborative evidence.

Although during hearing on the point raised by the officer of the second party as to whether the CARI can be designated as an industry to come under the Law of Industrial Disputes Act, 1947, but upto now not only by the decision of this court but also upto the decision of the Hon'ble High Court, the point is set at rest that the CARI is an Industry. So until and unless any altered view is not forthcoming before the court, of course, to be formulated by any appropriate authority or statute the CARI shall be designated as an Industry. Consequently, I am of the view that provisions if I.D. act atleast for the purpose of protection of any right or liberty of any workman attached to such Industry cannot expect that by continuing indisciplined behaviour in the name of Trade Union with the Management in the one hand he will be cordially allowed by the management to continue with his work in such industry. In that occasion obviously, the management of the Industry can have every right to take disciplinary action as against any such indisciplined workman and for that reason, there was a criminal case against the workmen connected with the case, from where although they were acquitted. So for that indisciplined behaviour the workmen had received their reward at the cost of monetary loss as well as tension oriented situation. But the retrenchment and/or termination in question, to my view is to be dealt with separately specially because the result of aforesaid criminal case the 1st Party members were acquitted. Therefore, to terminate any admitted DRM of temporary status notice under section 25 F if the I.D. Act is a must, specially when there is no evidence, adduced by the 2nd Party about the extent of period, if any, beyond expiry of which the 1st Party members would automatically be terminated without notice under Industrial Dispute Act. On the contrary, no argument is made or even any dispute is not raised before me about non-

completion of more than 240 days work by the 1st Party workmen. Obviously, I am not meaning that any workman having temporary status shall never be terminated by the management of the second party. What I do want to mean is that, before termination from services in the present situation one month notice under section 25 F of the I.D. Act is a must and compliance of that provision of Law should not be, rather cannot be equated with any disciplinary action as discussed above.

Therefore, the impugned termination of the workmen connected with the case being neither legal nor justified is liable to be set aside and they are entitled to get re-employment and shall remain with the employment with temporary status as before under the second party so long by giving thereafter, one month notice under section 25 F of I.D. Act they are not going to be terminated by the second party, option on which, obviously shall remain with the second party. However, the reference is thus, adjudicated by this Labour Court to give direction to the second party for giving immediate effect however, without any back wages till before the date of re-employment, since the adjudication was pending for the decision if the Labour Court. The points at issue are thus disposed of.

Hence, it is,

AWARDED

that the action of the Director, Central Agricultural Research Institute in terminating the services of S/Shri (1) Ravi Babu, Junior Clerk, (2) S. Mohan Rao, (3) R. Armugam, (4) Laxman Rao, (5) Theodor Kullu, (6) G. Tata Rao, (7) B.V.V. Swamy and (8) Laxmi Narayan, TSMs are hereby entitled to be reinstated into service under the second party in lieu of respective salary of wages, which were last drawn by them, subject to further benefit of emoluments and payments as to be fixed time to time by the Administration of the second party and this award shall take immediate effect, however by making it clear that the period of disengagement of the first party is to be taken notionally as the period of workmen's employment for continuity in service without any back wages or monetary benefit.

Let this award be forwarded to the Hon'ble Lt. Governor, A & N Islands through the Assistant Secretary (Labour), A & N Administration, Port Blair for information and due publication in the official gazette and for necessary further action.

Typed at my dictation and corrected by me.

Sd/-
P. O.

Sd/-
(Mir Dara Sheko)
Presiding Officer,
Labour Court,

Andaman & Nicobar Islands.

By order of the Secretary (Labour)

Sd/-
(P. Alvi)
Assistant Secretary (Lab)